

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7298

BILL NUMBER: SB 215

NOTE PREPARED: Jan 14, 2011

BILL AMENDED:

SUBJECT: Forfeiture.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ___GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It provides that, for purposes of the forfeiture statute, law enforcement costs shall be calculated as follows: (1) if the value of the seized property is \$3,000 or less, 85% the entire amount constitutes law enforcement costs; (2) if the value of the property is more than \$3,000 and less than \$100,000, law enforcement costs are \$3,000 plus 50% of the value of the property between \$3,000 and \$100,000, but may not exceed 85% of the value of the property; and (3) if the value of the property is \$100,000 or more, law enforcement costs constitute \$53,000 plus 20% of the amount equal to or exceeding \$100,000.
- B. It provides that 25% of law enforcement costs shall be transferred to the prosecuting attorney to defray the expenses of bringing the forfeiture action; however, this amount is capped at: (1) \$10,000 if the amount of property seized is less than \$100,000; and (2) \$20,000 if the amount of property seized is \$100,000 or more.
- C. It specifies that money or the proceeds of seized property that constitute law enforcement costs may be used only for: (1) law enforcement purposes; and (2) disbursements under an appropriation by the state or a local government unit.
- D. It permits a prosecuting attorney to retain an attorney to bring a forfeiture action only if the Attorney General approves the compensation agreement between the prosecuting attorney and the retained attorney, and requires that the compensation agreement with the attorney be capped at: (1) \$10,000 if the amount of property seized is less than \$100,000; and (2) \$20,000 if the amount of property seized is \$100,000 or more.
- E. It prohibits a prosecuting attorney from retaining a prosecuting attorney or a deputy prosecuting attorney to bring a forfeiture action.

Effective Date: July 1, 2011.

Explanation of State Expenditures: .

Explanation of State Revenues: The bill will have an indeterminable impact on the Common School Fund. LSA found limited information on asset seizures and the value of these assets to conclude whether the Common School Fund would receive more money from these asset forfeitures. If the value of these assets is less than \$3,000, the majority (85%) of any money produced from these assets will remain at the local level.

LSA used 13 forfeiture cases that were reported by the Wayne County Sheriff to the State Treasurer and the amount of money that was divided between the local law enforcement agencies and prosecuting attorney and the Common School Fund. The following table shows the reported distributions for each case and what the distribution would be under this proposed formula. For these selected cases, more money from asset seizures would stay at the local level under this proposed formula than is currently being recovered now.

	Current Law		Proposed Changes		
Case No.	Law Enforcement Costs	Common School Fund	Law Enforcement Costs	Common School Fund	Total Value of Asset
0712-MI-036	\$2,145.41	\$13,820.59	\$9,483	\$6,483	\$15,966.00
0806-MI-013	\$343.08	\$5,276.92	\$4,310	\$1,310	\$5,620.00
0908-MI-013	\$1,345.86	\$2,645.14	\$3,392	\$599	\$3,991.00
0806-MI-012	\$921.07	\$2,079.93	\$2,551	\$450	\$3,001.00
0610-MI-021	\$425.53	\$2,099.31	\$2,146	\$379	\$2,524.84
0704-MI-008	\$1,982.60	\$340.24	\$1,974	\$348	\$2,322.84
0606-MI-011	\$628.89	\$1,632.31	\$1,922	\$339	\$2,261.20
0804-MI-022	\$1,132.44	\$878.60	\$1,709	\$302	\$2,011.04
0612-MI-024	\$999.92	\$921.88	\$1,634	\$288	\$1,921.80
0811-MI-001	\$477.75	\$1,439.25	\$1,629	\$288	\$1,917.00
0811-MI-026	\$572.75	\$1,048.25	\$1,378	\$243	\$1,621.00
0704-MI-030	\$589.72	\$690.28	\$1,088	\$192	\$1,280.00
0611-MI-024	\$498.01	\$454.99	\$810	\$143	\$953.00
Totals	\$12,063	\$33,328	\$34,027	\$11,364	\$45,391

Explanation of Local Expenditures:

Explanation of Local Revenues: See *State Explanation of State Revenues*.

State Agencies Affected: Office of the State Treasurer.

Local Agencies Affected: Local law enforcement agencies.

Information Sources: Paul Ogden, Attorney at Law; Steve Johnson, Prosecuting Attorneys Council.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.